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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,787	10/05/2004	John Melvin	10607/001	5786
41129 nolaIP, LLC P.O. BOX 24100 NEW ORLEANS, LA 70184	7590 01/12/2011		EXAMINER MAUST, TIMOTHY LEWIS	
			ART UNIT 3751	PAPER NUMBER ELECTRONIC
			NOTIFICATION DATE 01/12/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ncoig@yahoo.com
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Office Action Summary	Application No. 10/711,787	Applicant(s) MELVIN ET AL.
	Examiner Timothy L. Maust	Art Unit 3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 November 2010.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
 4a) Of the above claim(s) 3-6 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1 and 2 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-946) | Paper No(s)/Mail Date _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 2-6 are objected to because of the following informalities:

Claim 2 has not been properly identified. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered). Appropriate correction is required.

The status of claims 3-6 is unknown and must be presented as discussed supra. Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Hermeling (EP1167860).

Regarding claims 1 and 2, the Hermeling reference discloses a mobile filling plant (vehicle 1, station 2, reservoir 3 and trailer 4) for filling compressed gas bottles (6) on-site with oxygen (see para. 5, line 1) (see Figures 1 and 2), comprising: transporting a transfilling station (2) to a desired transfilling site (station 2 and reservoir 3 are transported to the site by vehicle 1 and trailer 4; see para. 13); wherein the transfilling station (2) is contained in the footprint of a mobile vehicle (elements 1-4); attaching gas canisters (6) to said transfilling station (the canisters are attached at terminals provided on the underside of station 2; see para. 6); inspecting (inherent) and evacuating said gas canisters (the gas bottles and conduits are cleaned and analyzed between fillings as disclosed in paragraph 7 and paragraph 12); vaporizing and compressing a gas and directing it into said gas canisters (see line 1 in para. 12); disconnecting said gas canisters; and transporting said transfilling station from said

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transfilling site (after being filled, the bottles are disconnected for use and the transfilling station is capable of being moved to another site).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Mattiola et al. (4881375) in view of Hermeling (discussed *supra*).

The Mattiola et al. reference discloses a system for inspecting (inherent), evacuating, vaporizing and compressing a gas such as oxygen into gas cylinders (see Column 4, line 5 to Column 6, line 20), but doesn't disclose the concept of transporting the system to the site of filling. However, the Hermeling reference discloses another "mobile gas canister transfilling station" (discussed *supra*) wherein the system is transported to the site of filling (see disclosure). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Mattiola et al. system by making it mobile in view of the teachings of the Hermeling reference in order to simplify the refilling of gas cylinders or vehicles for the end user by bringing the product to the site of filling.

Claims 1 and 2 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Mattiola et al. in view of Niedwiecki et al. (6755225).

The Mattiola et al. reference discloses a system for inspecting (inherent), evacuating, vaporizing and compressing a gas such as oxygen into gas cylinders (see Column 4, line 5 to Column 6, line 20), but doesn't disclose the concept of transporting the system to the site of filling. However, the Niedwiecki et al. reference discloses another "mobile gas canister transfilling station" (see Figures 4-6) wherein the system is transported to the site of filling (see disclosure). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Mattiola et al. system by making it mobile in view of the teachings of the Niedwiecki et al. reference in order to simplify the refilling of gas cylinders or vehicles for the end user by bringing the product to the site of filling.

Response to Arguments

Applicant's arguments filed on 11/5/10 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a transfilling station **which also holds the evacuated gas from the gas containers**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Further, the Examiner construes the mobile filling station (elements 1-4) to be of one footprint, since it is moved to and from designated locations as a single unit.

In response to applicant's argument that the Hermeling and Mattiola references don't disclose the step of "inspecting" the canisters, see the above rejections and the following. The definition of "inspecting", taken in its broadest interpretation, is to "look over", which would be an inherent step when dealing with gas cylinders that need to be refilled. The person doing the refilling would certainly "look over" the gas cylinder prior to connecting it to the manifold and would notice any obvious defects (e.g., dents, loose valve, etc...). Further, many safety regulations require full inspection of the equipment when working with high pressure gas cylinders. It is also noted that the feature upon which applicant relies (i.e., inspecting the canisters **"in order to determine their suitability for refilling"**) is not recited in the rejected claim(s).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior of record pertains to various gas cylinder refilling systems that require inspection of the cylinders prior to refilling as a precautionary measure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 7:00-5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy L Maust/
Primary Examiner
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1/7/11